

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KASHIF M. ROBERTSON,	:	Civil No. 1:21-CV-00222
	:	
Plaintiff,	:	
	:	
v.	:	Judge Jennifer P. Wilson
	:	
CHAD A. MCGOWAN, <i>et al.</i> ,	:	
	:	
Defendants.	:	Magistrate Judge William I. Arbuckle

**ORDER**

Before the court is the report and recommendation of United States Magistrate Judge William I. Arbuckle recommending that the court grant the motion to dismiss filed by Defendant Chad A. McGowan and deny the motion to stay filed by Plaintiff. (Doc. 40.) Specifically, Judge Arbuckle opines that Plaintiff's Section 1983 Fourth Amendment unlawful seizure, unlawful search, and false arrest claims should be dismissed because they are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). (*Id.*) As to Plaintiff's excessive force claim, Judge Arbuckle submits that this claim should also be dismissed but with leave to file an amended complaint. (*Id.*) Lastly, Judge Arbuckle recommends denying Plaintiff's motion to stay pending the appeal of his underlying conviction to the Pennsylvania Supreme Court. (*Id.*) No party has filed objections to the report and recommendation, resulting in the forfeiture of de novo review by this court. *Nara*

*v. Frank*, 488 F.3d 187, 194 (3d Cir. 2007) (citing *Henderson v. Carlson*, 812 F.2d 874, 878–79 (3d Cir. 1987)).

Following an independent review of the report and record, and affording “reasoned consideration” to the uncontested portions of the report, *EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson*, 812 F.2d at 879), to “satisfy [the court] that there is no clear error on the face of the record,” Fed. R. Civ. P. 72(b), advisory committee notes, the court finds that Judge Arbuckle’s analysis is well-reasoned and fully supported by the record and applicable law. Accordingly, **IT IS ORDERED THAT:**

- 1) The report and recommendation, Doc. 40, is **ADOPTED**;
- 2) Defendant Chad A. McGowen’s motion to dismiss, Doc. 20, is **GRANTED**.
- 3) Plaintiff’s Section 1983 claims for unlawful search, seizure, and arrest are **DISMISSED** without prejudice.
- 4) Plaintiff’s Section 1983 excessive force claim is **DISMISSED** but Plaintiff is given leave to amend this claim within **21 days** of the date of this order.
- 5) Plaintiff’s motion to stay is **DENIED**.
- 6) This case is referred back to Magistrate Judge Arbuckle for pretrial management.

s/Jennifer P. Wilson  
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JENNIFER P. WILSON  
United States District Court Judge  
Middle District of Pennsylvania

Dated: September 13, 2022